

**Revision Date:** March 2011

**Chapter:** Benefits Procedures

**Section:** Death of an Active Member

**Impact to Page Numbers:** No

**Page:** 182

**Legend:** Deleted/Replaced - Added/Revised

#### PART IV – HEALTH ~~AND DENTAL~~ INSURANCE

Complete only if the member had health insurance coverage under the Public Employees' Medical and Hospital Care Act. A request for change in health benefits coverage based upon change in family status (death) may be made by an enrolled surviving family member who continues to receive an allowance.

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**Section:** Service Retirement

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2. Employer Certification of **unused** sick leave ~~and educational~~ hours is included in Section 7 of the **Service Retirement Election Application** (BSD-369-S) and must be completed before the member submits the application to CalPERS. To receive sick leave credit, the member's retirement date must be within 120 days from the date of separation from the employer granting the sick leave. If an employer needs to correct the certified amounts please use the **Requested Employer Certification Form** (BSD-200A).

**Service credit for unused sick leave is a mandated benefit for public agencies that participate in risk pools. For all others, it is an optional benefit.**

#### CONVERSION OF SICK LEAVE CREDITS

All employees, regardless of their work schedule (6.6 hours, 4/10/40, 9/8/80, 52 hour, etc.) will have any accumulated unused hours of sick leave service credit divided by eight to determine the number of days to report to CalPERS for the purposes of enhancing the retirement benefit. No exceptions.

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1. There was no agreement to return to work as a retired annuitant between the member and the employer before the member retired, and
2. There is a bona fide break in service of 60 days between the member's retirement date and the date the retiree's employment will begin.

"Normal retirement age" is the age named in the member's retirement Benefit Formula. For example, the "normal retirement age" for a 2% @ 55 Benefit Formula is 55. However, if the member has more than one Benefit Formula, then the "normal retirement age" is determined and governed by the highest "normal retirement age".

**Example:** Joe Smith is a public agency/school miscellaneous member who retired June 30, 2007 at age 52 with 20 years of service. His benefit formula at retirement was 2% at 55. Because he has not reached his "normal retirement age" of 55, (i.e. his Benefit Formula age of 55), he will be eligible to work for his former employer only if both of the following conditions are met: (1) there was no agreement (written or verbal) between him and the employer for him to work as a retiree before he retired and, (2) he does not begin the retiree employment until 60 days after his retirement date.

**Example:** Joe Smith is a public agency/school miscellaneous member who retired June 30, 2010 at age 52 with 20 years of service. His benefit formula at retirement was 2% at 55. Because he has not reached his "normal retirement age" of 55, he must have a bona fide separation in service which means: (1) he and the CalPERS covered employer must not have had a predetermined agreement for him to return to work before his retirement, and (2) he must have a 60 day separation between his retirement date and the first day of employment as a retired annuitant.

This restriction is per G.C. section 21220.5 and was added to CalPERS law in 2004 to comply with IRS tax regulations prohibiting in-service distributions of pension benefits. The only exception to the section 21220.5 restrictions for retirees under normal retirement age is in emergency situations as defined in G.C. section 8558.

CalPERS auditors have incorporated this requirement into the auditing criteria for employers. If the retiree is at or above the normal retirement age as noted above, section 21220.5 restrictions above do not apply.

A retiree may work for a CalPERS employer (an employer who contracts with CalPERS for retirement benefits) as a temporary employee (retired annuitant) only as specified in CalPERS law.

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~~CalPERS auditors have incorporated this requirement into the random auditing criteria for employers. A violation of this provision will not result in automatic reinstatement from retirement for the retired person.~~

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## SCHOOL CROSSING GUARDS

Any retired person may be employed as a school crossing guard (G.C. section 21221(b) - not subject to 960 hour rule).

## ~~TEMPORARY AND SUBSTITUTE EMPLOYMENT~~ SERVICE FOR LITIGATION

A retired former employee may be employed to prepare for potential or actual litigation or to testify in trial proceedings or at a hearing and be paid per diem and necessary travel expenses not to exceed the rate paid other persons for similar services. The per diem paid must be reduced by the daily equivalent of the retiree's retirement annuity. Contact the CalPERS Benefit Services Division (BNSD) to obtain the amount of the retiree's monthly annuity benefit (G.C. section 21223).

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To request approval for employment of a retired person as an independent contractor, please submit your request along with a copy of the proposed contract or employment agreement and scope of duties to:

**CalPERS**

Benefit Services Division

P.O. Box 942711

Sacramento, California 94229-2711

**Chapter:** Benefits Procedures

**Section:** Beneficiary Designation (After Retirement)

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### **3. Dissolution of Marriage, Legal Separation, Annulment or Termination of Domestic Partnership**

If the retired member elected:

a. Unmodified Allowance or Option 1

- This is not a qualifying event.

b. Option 2, 2W, 3, 3W, or 4

- ~~Regardless of what option the retired member chose, a non-spouse/domestic partner beneficiary disclaimer is not a qualifying event for a modification of option. This simply means the non-spouse/domestic partner beneficiary relinquished their entitlement to CalPERS benefits.~~
- If the retired member's former or legally separated spouse/domestic partner is the Option 2, 2W, 3, 3W or 4 beneficiary and the dissolution/termination or legal separation judgment dividing the community property awards the member the entire interest in the CalPERS retirement, the beneficiary can be changed and the member can modify the election to an Option 1, 2, 2W, 3, 3W or 4 and name a new beneficiary.